

MDR Tracking Number: M5-04-0202-01

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution - General and 133.308 titled Medical Dispute Resolution by Independent Review Organizations, the Medical Review Division assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. The dispute was received on 09-16-03.

The Medical Review Division has reviewed the enclosed IRO decision and determined that **the requestor did not prevail** on the issues of medical necessity. The IRO agrees with the previous determination that the laminectomy, facetectomy, foraminotomy, 360 arthrodesis with instrumentation along with post-operative x-rays for three months 10-02-02 through 12-31-02 were not medically necessary. Therefore, the requestor is not entitled to reimbursement of the IRO fee.

Based on review of the disputed issues within the request, the Medical Review Division has determined that medical necessity fees were the only fees involved in the medical dispute to be resolved. As the services listed above were not found to be medically necessary, reimbursement for dates of service 10-02-02 through 12-31-02 are denied and the Medical Review Division declines to issue an Order in this dispute.

This Decision is hereby issued this 30<sup>th</sup> day of December 2003.

Debra L. Hewitt  
Medical Dispute Resolution Officer  
Medical Review Division  
DLH/dlh

December 15, 2003

David Martinez  
TWCC Medical Dispute Resolution  
4000 IH 35 South, MS 48  
Austin, TX 78704

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IRO #: 5251

\_\_\_ has been certified by the Texas Department of Insurance as an Independent Review Organization. The Texas Worker's Compensation Commission has assigned this case to \_\_\_ for independent review in accordance with TWCC Rule 133.308 which allows for medical dispute resolution by an IRO.

\_\_\_ has performed an independent review of the care rendered to determine if the adverse determination was appropriate. In performing this review, all relevant medical records and documentation utilized to make the adverse determination, along with any documentation and written information submitted, was reviewed.

The independent review was performed by a matched peer with the treating doctor. This case was reviewed by a licensed Medical Doctor board certified and specialized in Orthopedic Surgery. The reviewer is on the TWCC Approved Doctor List (ADL). The \_\_\_ health care professional has signed a certification statement stating that no known conflicts of interest exist between the reviewer and any of the treating doctors or providers or any of the doctors or providers who reviewed the case for a determination prior to the referral to \_\_\_ for independent review. In addition, the reviewer has certified that the review was performed without bias for or against any party to the dispute.

#### CLINICAL HISTORY

\_\_\_ sustained a twisting injury to her spine on \_\_\_ while working as a materials handler at \_\_\_. It is reported that she underwent conservative care by \_\_\_ and \_\_\_. She had injections and medication with a diagnostic MRI. On 8/16/02 she presented to the surgeon with complaints to increasing back pain radiating down both legs, left worse than right, reporting that activities made it worse and that rest improved her symptoms. Over the past two years she had returned to work twice in a lighter capacity, but was unsuccessful.

There is no discussion of prior back pain and there is no report of any significant comorbidities. On the surgeon's evaluation dated 8/16/02 he reported spondylolisthesis at L4/5 that had progression on plain radiographs. He suggested that the spondylolisthesis was unstable and recommended accepting the pain or decompression and fusion. The patient elected for surgery, which was then performed on 10/2/02 after successfully completing the pre-operative scrutiny by a favorable preauthorization request. The medical records stop on 12/31/02, which was three months postoperative. This patient continues to have back pain, and a surgeon disputed the impairment rating provided by the DDE.

#### DISPUTED SERVICES

Under dispute is the medical necessity of a surgery performed for spondylolisthesis at L4/5 that includes laminectomy, facetectomy, foraminotomy, 360 arthrodesis with instrumentation along with post-operative x-rays for three months.

#### DECISION

The reviewer agrees with the prior adverse determination.

#### BASIS FOR THE DECISION

Although the treating surgeon obtained the required preauthorization approval, critical information regarding determining medical necessity for the procedure performed prospectively, or other critical information regarding the procedure performed

retrospectively, was not provided to allow for an independent review to confirm the medical necessity of this request.

The medical records submitted for this review were deficient in regard to the two years prior to surgery that confirmed that the patient had reasonable care for the spinal disease. There are no notes regarding \_\_\_\_ or \_\_\_\_ care. There is however a peer review by \_\_\_\_ who opined that the treatment rendered by \_\_\_\_ was for myofascial pain from a lumbar strain and had successfully responded to trigger point injection and returned back to work. It is unknown to the reviewer if epidural injections, facet blocks, diagnostic provocative discograms and/or other invasive treatments/tests were carried out.

Often times the end can justify the means, but unfortunately there is no information submitted regarding the outcome of her surgery in follow-up. Degenerative lumbar spondylolisthesis is not an uncommon event, which usually involves arthritis of the facet joints at the L4/5 level in the older woman, as is in this case, and is supported by the literature such as an article by \_\_\_\_, "The Diagnosis and Management of Degenerative Lumbar Spondylolisthesis," regarding the diagnosis and management of degenerative lumbar spondylolisthesis, available through Medscape. The information submitted in this article indeed supports the treatment rendered in this case of a spondylolisthesis at L4/5. It is accepted that excessive translations to define instability is at least 4 mm of motion and the records suggest 9 mm, which was changed to 5 mm on subsequent reports. The critical issue specific to this case is that the patient had low level disease documented by MRI with facet arthropathy and degenerative disc changes. It is unknown to the reviewer that steps were taken to assure that the surgery that was performed was indeed for the pain generator at L4/5 and that L5/S1 was safely omitted. Medical records regarding retrospective indications confirming the success of surgery would have helped verify this request, for one can speculate that the patient continued to have back pain due to the untreated changes at L5/S1 and a single motion segment between the sacrum and the arthrodesis.

\_\_\_\_ has performed an independent review solely to determine the medical necessity of the health services that are the subject of the review. \_\_\_\_ has made no determinations regarding benefits available under the injured employee's policy

As an officer of \_\_\_\_, I certify that there is no known conflict between the reviewer, \_\_\_\_ and/or any officer/employee of the IRO with any person or entity that is a party to the dispute.

\_\_\_\_ is forwarding this finding by US Postal Service to the TWCC.

Sincerely,